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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,694	05/24/2001	Mark Nicholas Johnson	01458	2097

24118 7590 08/11/2005
 HEAD, JOHNSON & KACHIGIAN
 228 W 17TH PLACE
 TULSA, OK 74119

EXAMINER

HEWITT, JAMES M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/864,694	Applicant(s) JOHNSON, MARK NICHOLAS	
	Examiner James M. Hewitt	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-11, 14, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-11, 14, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/11/05 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maslow (US 3,757,705) in view of Burton et al (US 3,719,389).

With respect to claim 9, Maslow discloses a method of forming a mechanical joint, said method comprising: taking a first elongated member and forming an opening therein depending from one edge of said member to leave a single thickness band of material at said opening to reveal an interior surface of said first elongated member; positioning a second member in said opening so that said interior surface mates

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therewith. Maslow fails to teach how the opening is formed; specifically, by moving the first member to move first and second edges of the opening towards one another to a degree to trap and engage the second member in said opening. Burton et al teaches forming a closed loop clamping section (see Figure 3) of an article (a chair) by heating and using a mandrel to form the desired shape of the opening. It is not clear how Maslow forms his sleeve (22), however it would have been obvious to one having ordinary skill in the art at the time the invention was made to form Maslow's sleeve by heating a initially flat cut of material and using a mandrel to form the flat, now formable portion, into a circular sleeve.

Note that the forming member, i.e. the mandrel (taught by Burton et al), is interpreted as the second member.

With respect to claim 10, wherein said first and second edges are respectively moved so as to substantially close said opening and hence retain said second member in position in said opening. Refer to Figures 2-4 in Maslow.

With respect to claim 14, wherein said second member (mandrel or former) is a former retained in position in said opening (up and until the mandrel is to be removed).

With respect to claim 19, refer to the above rejection of claim 9.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maslow in view of Burton et al, as applied to claim 9 above, and further in view of Cruson (US 3,103,742).

Maslow and Burton et al teach all the limitations of claims 11 and 18 except that the opening is closed by a closing member (weld material). In Figures 1 and 2, Cruson discloses welding the opening of the tubular member closed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Maslow/Burton et al by closing the opening as taught by Cruson in order to permanently seal the tubular sleeve if it is desired to fixedly secure the sleeves in position on members (28). Note that Maslow, in col. 4 lines 14-32, states that the sleeves may be provided with a split wall portion to allow the shelves to be positioned in a horizontal plane defined by ledges (36). If a user preferred not to have the sleeves be slidable along the members (28), he/she could most certainly choose to permanently close the openings (38) by welding, as evidenced by Cruson.

Response to Arguments

Applicant's arguments filed 7/11/05 have been fully considered but they are not persuasive.

In response to Applicant's argument that Maslow does not teach a method of forming a mechanical joint by taking a first elongated member and forming an opening therein depending from one edge of said member to leave a single thickness band of material at said opening to reveal an interior surface of said first elongated member, the examiner disagrees. An opening (for receiving a post 12) is formed in, or formed in the interior of, or formed within Maslow's member (22), the opening depending from one edge of the member to leave a single thickness band of material (member 22 is single

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thickness band of material) at said opening to reveal an interior surface of the elongated member.

Applicant's arguments presented in the first three paragraphs of page 6 amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.


In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Burton et al provides a teaching of forming a clamping sleeve by heating and using a mandrel to form the opening of the sleeve. Maslow does not state how his sleeve is formed, yet given Burton et al's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form Maslow's sleeve by heating an initially flat cut of material and using a mandrel to form the flat, formable portion into a circular sleeve.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hewitt whose telephone number is 571-272-7084.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JAMES M. HEWITT
PRIMARY EXAMINER